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| 10/671,722      | 09/29/2003  | Mark D. Jamison      | 14460               | 9269             |

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EXAMINER

WEINSTEIN, STEVEN L

ART UNIT PAPER NUMBER

1761

DATE MAILED: 09/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/671,722

Applicant(s)

JAMISON, MARK D.

Examiner

Steven L. Weinstein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 4/9/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

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The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-12 are rejected under 35USC112, 1<sup>st</sup> paragraph as being based on a non-enabling disclosure. The specification is not clear as to the nature of the valve. There appears to be two possibilities that one can glean from the specification. One is that the valve is actually the channel formed through a seal, which channel is defined by the edge of the heat seal. That is, the valve/channel is an unsealed pattern in the heat seal. The heat seal then would be the broad area in Fig 1b between the upper two parallel lines. A second possibility is that the valve is some undisclosed, internal physical element positioned between the opposing film surfaces. This would account for the phrase, the valve is "inserted" during production (page 11, para. 1 of the specification). Since there is no disclosure of an additional physical element permanently sealed between the films, to expedite prosecution, the word "inserted" is assumed to be incorrect and the invention, and thus the claims, will be construed that the valve is the unsealed passageway between the sealed areas. Clarification and/or correction is requested. Applicant is cautioned against the addition of New Matter.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-3, 7-10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Yates.

Yates discloses a flexible pouch comprising sheets of flexible polymeric film material sealed together around a peripheral edge enclosing a storage chamber for a foodstuff such as coffee wherein the flexible material will inherently have a pre-selected film suppleness (i.e. pliant or flexible) and at least one pressure relief valve formed directly in the flexible film material with the valve having at least one valve entrance, and at least one channel passageway terminating in a valve outlet, which passageway has an effective tortuosity, which, in combination with the film suppleness, results in opening the valve when a threshold pressure is surpassed in the chamber, to permit an excess of gas, generated by the product, to be vented, and closing the channel passageway at one or more points when the pressure drops below the threshold pressure, thus substantially inhibiting back flow of air into the chamber. See the entire document of Yates in this regard including page 1, col. 2, para. 1 and 2. In regard to claims 2 and 3, Yates discloses the pressure will not cause bag rupture, and the channel has a 90 degree angle. Claims 7-10 and 12 are anticipated by Yates for the reasons given above.

Claims 1-4, 7-10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Jamison (5,419,638), for the same reasons discussed above in regard to Yates. In regard to claim 4, Jamison discloses a valve entrance larger than the passageway (e.g., fig. 3a and 3d).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yates in view of Jamison and Stetler et al (4,834,554).

Claim 4 differs from Yates in the recitation of the dimensional relationship between the valve entrance and the passageway. As noted above, Jamison discloses the conventionality of providing a valve entrance larger than the passageway and that the dimensional elements can be varied. Stetler et al can be relied on as further evidence that it was well established in the art to vary the spacing in valves defined by channels (which are in turn defined by heat seals) to thereby vary the pressure necessary to open the valve. To modify Yates and change the relative dimensions of the elements would therefore have been an obvious routine determination for one of ordinary skill in the art in view of the art taken as a whole.

Claims 5,6 and 11 are rejected under 35USC103(a) as being unpatentable over Yates in view of Jamison or Jamison in view of Yates, both further in view of Stetler et al, further in view of Platel (4,449,243), Long et al (3,311,287), Salfisberg (2,595,708), Plock et al (4,581,7640, Bourne et al (AU 9714943), Kamata (Jp 11-3218180) and Kaplan et al(RE 24,251).

Stetler is relied on as above as further evidence of ventable pouches and the manipulation of the dimensions of the elements of the valve. Claims 5,6 and 11 differ from the combination in the recitation that there are two valve entrances and two

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channel passageways which merge into a common outlet passageway and each passageway has at least a 90 degree angle. As evidenced by Platel, Long et al, Salfisberg, Plock et al, Bourne et al, Kamata and Kaplan et al, it was well established in the art to provide a pouch with various patterns of valve entrances, passageways and outlets for allowing gases and even liquids to be removed from the pouch. Platel, for example discloses two valve entrances, short passageways leading to a longer passageway and a common outlet. Although the valve system is provided for vacuum packaging, Platel nevertheless teaches the pattern is employed to remove gas from inside the pouch. Note that Yates and Jamison already teach venting structure for removing gases under pressure. Long et al, Salfisberg, Plock et al, Bourne et al and Kamata are relied on as further evidence of pouch valves with at least two entrances. Note that Bourne discloses a pouch valve that has two entrances (12,13) and a common outlet passageway. Finally, Kaplan, although directed to removing a liquid from a bag, nevertheless teaches to provide what is, in effect, a valve that has two inlets, two passageways and one common outlet. Note that in column 2, para. 1 of Kaplan, it is disclosed that internal pressure will distort or spring apart the sheets and that upon release of pressure, the two sheets will tend to return to the flat position and effectively prevent leakage. Note that liquids like gases are fluid materials, and the art taken as a whole would teach one to expect such operation is applicable to gases as well, especially in view of Yates and Jamison. To therefore modify the combination and provide the recited valve pattern for its art recognized and applicants intended function would therefore have been obvious.


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The remainder of the references cited on the PTO 892 form are cited as pertinent art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven L. Weinstein whose telephone number is 571-272-1410. The examiner can normally be reached on Monday-Friday 7:00 A.M.-2:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
STEVE WEINSTEIN  
PRIMARY EXAMINER 1761  
9/26/06